

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

CARLOS CUELLAR,

*Plaintiff,*

v.

AIR EVAC EMS, INC. a/k/a  
AIR EVAC LIFETEAM,

*Defendant.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

CAUSE NO. 4:18-cv-03635

STATE COURT PLEADINGS FILED WITH  
DEFENDANT'S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), the following documents are attached to Defendant's

Notice of Removal:

1. Plaintiff's Original Petition;
2. Exhibit A to Plaintiff's Original Petition;
3. Citation to Defendant;
4. Return service of Citation;
5. Defendant's Original Answer

CL-18-4403-D

CAUSE NO. \_\_\_\_\_

CARLOS CUELLAR,  
*Plaintiff*

vs.

Air Evac EMS Inc., d/b/a Air Evac  
Lifeteam*Defendants*§  
§  
§  
§  
§  
§  
§  
§

IN THE COUNTY COURT

AT LAW NO. \_\_\_\_

HIDALGO COUNTY, TEXAS

---

**PLAINTIFF CARLOS CUELLAR'S ORIGINAL PETITION**

---

**TO THE HONORABLE COURT:**

COMES NOW, CARLOS CUELLAR (hereinafter referred to as Plaintiff) complaining of AIR EVAC EMS INC. d/b/a AIR EVAC LIFETEAM (hereinafter referred to as the "Defendant", "Defendant employer" or "Air Evac") and for such causes of action would respectfully show unto the Court and the Jury as follows:

**I.****Discovery Level**

1.1 Discovery in this litigation is intended to be conducted under Level 3, Texas Rule of Civil Procedure 190. Plaintiff Carlos Cuellar requests that discovery be conducted under Level 3 and that non-expedited discovery rules apply as the compensable damages exceed \$100,000.

**II.****Parties**

2.1 Plaintiff, CARLOS CUELLAR, is an individual residing in Weslaco, Hidalgo County, Texas.

2.2 Defendant AIR EVAC EMS INC. d/b/a AIR EVAC LIFETEAM is a business in the State of Texas and may be served by serving its registered agent as follows:



Date: 10/05/2018

I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in the County Clerk's OfficeBy: *Cassandra Mora*  
23 August 2018  
Deputy Clerk

**CL-18-4403-D**

**Corporation Service Company  
211 E 7<sup>th</sup> St., Suite 620  
Austin, Texas 78701**

2.3 Service of citation is requested *Via Certified Mail, Return Receipt Requested.*

**III.**

**Venue and Jurisdiction**

3.1 Venue is proper in Hidalgo County, Texas in that the incident made the basis of this cause of action occurred in Hidalgo County, Texas.

**IV.**

**NO FEDERAL CLAIMS MADE**

4.1 Plaintiff hereby gives notice that the only causes of action he intends to litigate are those concerning rights afforded to him under the Texas Constitution and rights afforded to him by the Texas Labor Code and the Common Law of the Sovereign State of Texas. The Plaintiff hereby affirmatively avers that he has not alleged any federal cause of action.

**V.**

**Administrative Procedures**

5.1 Within 180 days of the occurrence of the acts complained of, Plaintiff filed his initial complaint with the Texas Workforce Commission - Civil Rights Division, formerly known as the Texas Commission on Human Rights alleging that the Defendant employer had committed unlawful employment practices against the Plaintiff in violation of the Texas Commission on Human Rights Act (sometimes hereinafter referred to as the "TCHRA"). The formal charge and the "Notice of the Right to File A Civil Action Letter" were filed and received as follows:

Formal Complaint Filed: December 20, 2017

Notice of Right to File A  
Civil Action Letter Received: June 29, 2018



**CL-18-4403-D**

5.2 On June 29, 2018, Plaintiff received from the Texas Workforce Commission – Civil Rights Division, formerly known as the Texas Commission on Human Rights, Plaintiff's Right to File A Civil Action letter allowing the Plaintiff to file this lawsuit within sixty days of its receipt. Plaintiff's statutory claims have been filed within sixty days of its receipt. A copy of this notice is attached as Exhibit "A" and is incorporated for all purposes by reference. Plaintiff further invokes the relation back theory as well as any and all equitable doctrines necessary to satisfy the administrative requirements set forth by law. All conditions precedent to the filing of this lawsuit and as required by law have been performed or have occurred.

**VI.****Factual Background**

6.1 In or around March 12, 2012, Plaintiff Carlos Cuellar was hired by Air Evac EMS, Inc. d/b/a Air Evac Lifeteam. As a result of Plaintiff's perseverance and dedication, Plaintiff progressed his way up way up from a line Pilot to a Base Pilot Supervisor in two months. Plaintiff was also was the Base Pilot Supervisor for two bases for approximately 9 months.

6.2 At the time of his wrongful dismissal, Plaintiff was earning a \$90,000 dollar base salary. During his 5 years, Plaintiff never received a negative review of his performance. In fact Plaintiff had received 5 good reviews during his tenure.

6.3 In a pretextual manner, Plaintiff had been placed on probation once during his final year for the recording of his weight. Thereafter, Plaintiff was fired on June 29, 2017 for writing down an unobserved weight (his own) in which 6 other employees committed the same infraction before Plaintiff did, while waiting for two managers to return to the base meeting.

6.4 When the managers viewed the weigh in, Plaintiff was fired in the presence of Mark Fisher, Regional Director of Flight Operations and Pete Wolf, Regional Director of Base Operations.





**CL-18-4403-D**

6.5 During the last six months of employment Plaintiff was subjected to discriminatory animus, disparate treatment and/or hostile work environment. Plaintiff notified the Program Director, Max Lopez that he was under medical care for a thyroid problem and high blood pressure which caused his weight to fluctuate and that Plaintiff could not control it.

6.6 Plaintiff handed Max Lopez a Dr.'s note and excuse representing this fact. Mr. Lopez accepted the letter and told Plaintiff that he would file it and not to worry about the weigh in.

6.7 Plaintiff wrote a statement and also had a phone interview with the Director of HR that was recorded. In that recorded conversation, Plaintiff was asked several different ways if he understood the policy which he had signed the year before and why had Plaintiff allegedly weighed in unobserved.

6.8 Plaintiff stated several times that he fully expected to be observed as soon as his Program Director returned from his meeting, just like all of the other employees in front of his name were waiting on the list as well.

6.9 Once the Program Director returned to the base he observed everyone on the list weigh in, including Plaintiff. Plaintiff did not break policy because as he understood the policy a Base Pilot Supervisor will not sign an employee's unobserved weight. Plaintiff did not sign off anyone's unobserved weight. All personnel signed in to the weight sheet as employees and left the sign off of the managers' blank for the Program Director to sign.

6.10 On June 29, 2017, Plaintiff was notified by Mark Fisher that he was terminated effective immediately for allegedly failing to follow the weigh in policy. However Plaintiff did comply with the weigh in policy as soon as the Program Director returned to the base. Out of 6 people who followed the same procedure as Plaintiff did that day, Plaintiff was the only one terminated. There are pilots who have crashed aircraft and killed people that have kept their jobs.

10/05/2018



Date: 10/05/2018  
I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.  
By: Cassandra Mora  
Deputy Clerk

**CL-18-4403-D**

There are pilots who have not followed policy and damaged aircraft in the hundreds of thousands of dollars, and they still have their jobs.

**VII.****Causes of Action - Section 21.051 Discrimination by Employer****A. Violations of the Texas Commission on Human Rights Act**

7.1 Plaintiff re-alleges the allegations contained in Section VI, entitled *Factual Background*.

7.2 During his last several months of employment, Plaintiff was subjected to disparate treatment as well as a hostile work environment on account of his age (50; DOB: 03/03/1966) and his disability (thyroid disorder/high blood pressure).

7.3. Plaintiff suffers from a disability that either with or without a reasonable accommodation can perform the substantial functions of his job. To the extent that Plaintiff is not considered disabled, he has been treated as if he were regarded as being disabled due to his record of impairment.

7.4 On or about June 29, 2017, Plaintiff was unlawfully terminated by members of Defendant's management.

7.5 Plaintiff asserts that a motivating or determining factor in his unlawful termination was because he was discriminated against in violation of the Texas Commission on Human Rights Act on account of his age (50; DOB: 03/03/1966) and/or his disability (actual, perceived as, regarded as). Plaintiff has been unlawfully discriminated against and/or retaliated against in violation of the Texas Commission on Human Rights Act as amended.

7.6 The Defendant, their agents, servants, and employees discharged or in some other manner discriminated against Plaintiff on account of his age in violation of the Texas Commission on Human Rights Act



**CL-18-4403-D****Section 21.051 Discrimination by Employer:**

7.7 An employer commits an unlawful employment practice if because of race, color, *disability*, religion, sex, national origin, or *age*, the employer:

1. *Fails or refuses to hire an individual, discharges an individual, or discriminates in any other manner against the individual in connection with compensation or the terms, conditions, or privileges of employment;*  
or
2. *Limits, segregates or classifies* an employee or applicant for employment in a manner that would deprive or tend to deprive an *individual of any employment opportunity or adversely affect in any other manner the status of the employee.*  
(Vernon's 2017)(emphasis added).

7.8 Further, Plaintiff alleges that the wrongful termination by the Defendant employer was a form of retaliation because of his complaints of discrimination. Such actions are prohibited by an employer as follows:

**Section 21.055, Retaliation**

An employer, labor union or employment agency commits an unlawful employment practice if the employer, labor union or employment agency *retaliates* or *discriminates* against a person who, under this Chapter:

1. *Opposes discriminatory practice;*
2. Makes or files a charge;
3. Files a complaint; or
4. Testifies, assists or participates in any manner in an investigation, proceeding or hearing.

(Vernon's 2017)(emphasis added).

7.9 As a result of the discriminatory treatment, his ultimate termination and/or the acts described herein, Plaintiff has suffered damages as further alleged in this Petition.



Date: 10/05/2018

I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.

By: *Cassandra Mora*  
Deputy Clerk



CL-18-4403-D

## VIII.

Actual Damages

8.1 As a result of the incident made the basis of this suit, Plaintiff has incurred damages in the following respects:

**A. Lost Earnings and Special Damages**

8.2 At the time of the incident complained of, Plaintiff was gainfully employed. As a proximate result of the wrongful conduct and corresponding acts of the Defendant employer, Plaintiff was unable to attend to his occupation and thereby suffered a loss of income for which he hereby sues. As a result of the wrongful conduct and corresponding acts of the Defendant employer, the Plaintiff's earnings, retirement and capacity to earn a livelihood were severely impaired. In all reasonable probability, the Plaintiff's loss of earnings and loss of earning capacity will continue long into the future, if not for the balance of the Plaintiff's natural life. Plaintiff therefore sues for any lost earnings in the form of back pay, lost wages, front pay, retirement benefits, and fringe benefits, lost future earnings and/or diminished earning capacity to the extent permitted by law due to the acts complained of above.

**B. Past and Future Mental Anguish**

8.3 As a result of the incident described above, that is made the basis of this suit, Plaintiff has suffered physical injuries, sickness and/or illness as well as emotional distress, loss of enjoyment of life, mental anguish and other hedonic damages. The Plaintiff has suffered feelings of anxiety, worthlessness, embarrassment, and inferiority. The Plaintiff has further suffered ill-health effects including, but not limited to, agitation, restlessness, sleeplessness, depression and/or loss of self-esteem due to the discriminatory treatment and/or his illegal termination or wrongful discharge. In all reasonable probability, Plaintiff will continue to suffer such physical injuries, sickness and/or illness as well as emotional distress, loss of enjoyment of life, mental





**CL-18-4403-D**

anguish and other hedonic damages for a long time into the future, if not for the balance of his natural life.

**IX.****Attorney's Fees**

9.1 By reason of the allegations of this petition and should Plaintiff be designated the "prevailing party", Plaintiff is entitled to recover attorney's fees in a sum that is reasonable and necessary. In this connection, Plaintiff will show that he has employed the undersigned attorney to assist him in the prosecution of this action. Plaintiff further seeks an upward adjustment or enhancement to the *lodestar* amount of attorney's fees to be determined in the prosecution of this lawsuit. A reasonable attorney's fee is further requested for the work expended in the preparation and trial of this cause along with a reasonable fee for any and all appeals to other courts. If ultimately successful in this case, plaintiff fully expects that the defendant employer will appeal this case. Plaintiff seeks attorney's fees to compensate the plaintiff for the attorney's fees he has and will incur in the prosecution of this lawsuit, both at trial and on appeal. Plaintiff further pleads for the recovery of reasonable and necessary expenses for the use of associate counsel, paralegals and/or law clerks that assist in the prosecution of the case. As permitted, Plaintiff also seeks to re-coup all litigation expenses expended in the prosecution of this lawsuit.

**X.****Exemplary Damages**

10.1 The conduct of the Defendant, as set out above, was carried out and constituted such an entire want of care as to constitute a conscious indifference to the rights or welfare of the Plaintiff. Because of the spite, ill-will, malicious and/or fraudulent intent held by the Defendant's management toward the Plaintiff, such management, acting in a willful and intentional manner, committed certain acts calculated to cause injury and/or damage to the Plaintiff. Accordingly, the



**CL-18-4403-D**

Defendant acted with malice, actual malice and/or a specific intent to injure the Plaintiff. Plaintiff is hereby entitled to recover exemplary or punitive damages to deter such cruel and undignified procedures by the Defendant and their management in the future. Accordingly, Plaintiff requests that punitive damages be awarded against the Defendant as a result of its egregious violations of the law.

**X1.****Demand for Trial by Jury**

11.1 Plaintiff, by and through his attorney of record and pursuant to Rule 216 of the Texas Rules of Civil Procedure makes and files this Demand for Trial by Jury in the above styled and numbered cause. Contemporaneously with the filing of this jury demand, Plaintiff has deposited the required jury fee with the County Clerk of Hidalgo County, Texas. Plaintiff requests that this case be set on the jury docket of the court for disposition in due order and as soon as practicable.

**WHEREFORE**, Plaintiff, **CARLOS CUELLAR** prays that this Honorable Court grant the following:

- (1) Judgment against the Defendant, **AIR EVAC EMS INC. d/b/a AIR EVAC LIFETEAM** for the Plaintiff's actual damages;
- (2) Punitive damages;
- (3) Attorney's fees;
- (4) Pre-judgment interest allowed by law;
- (5) Interest on said judgment at the legal rate from the date of judgment;
- (6) For costs of suit herein; and
- (7) For such other and further relief at law or in equity to which the Plaintiff may show himself justly entitled to receive and for which he shall forever pray.



**CL-18-4403-D**

Respectfully submitted,

**THE LAW OFFICES OF  
CARLOS E. HERNANDEZ, JR., P.C.**

200 N. 12<sup>th</sup> Ave., Suite 102  
Edinburg, Texas 78541-3503  
Telephone: (956) 386-0900  
Facsimile: (956) 380-0771

[carlos.hernandezjr@gmail.com](mailto:carlos.hernandezjr@gmail.com)  
[hernandezjrlawfirm@yahoo.com](mailto:hernandezjrlawfirm@yahoo.com)

By: /s/carlos e. hernandez, jr.

Carlos E. Hernandez, Jr.  
State Bar No. 00787681

**THE LAW OFFICES OF  
JOSE G. GONZALEZ**

2102 West University,  
Edinburg, Texas 78539  
Telephone: (956) 383-2143  
Facsimile: (956) 383-2147

[jgglaw@gmail.com](mailto:jgglaw@gmail.com)

By: /s/jose "joe" g. gonzalez

Jose "Joe" Guadalupe Gonzalez.  
State Bar No. 24053234

**ATTORNEYS FOR PLAINTIFF  
CARLOS CUELLAR**



Date: 10/05/2018

I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.

By: Cassandra Mora  
Deputy Clerk

CL-18-4403-D

# EXHIBIT A



Date: 10/05/2018  
I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.  
By: Cassandra Mace  
Deputy Clerk



# Texas Workforce Commission

A Member of Texas Workforce Solutions

**Carlos Cuellar**

c/o Carlos E. Hernandez, Jr.

**THE LAW OFFICES OF CARLOS E. HERNANDEZ, JR. P.C.**

200 N. 12<sup>th</sup> Avenue, Suite 102

Edinburg, TX 78541

Andres Alcantar, Chairman  
Commissioner Representing the Public  
Ruth R. Hughs  
Commissioner Representing Employers  
Julian Alvarez  
Commissioner Representing Labor  
Larry E. Temple  
Executive Director

## NOTICE OF DISMISSAL AND RIGHT TO FILE CIVIL ACTION

**Carlos Cuellar v. AIR EVAC EMS, INC**

TWCCRD Charge No.	EEOC Charge No.	TWCCRD Representative:
1A18494	31C-2018-00452	Railin Isaac

The Civil Rights Division has dismissed this Charge and is closing its file for the following reason:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the TWCCRD.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act or the Texas Labor Code, Chapter 21.
- ☐ The Respondent employs less than the required number of employees or not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limits required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that afforded full relief for the harm you alleged. You failed to accept the full relief.
- ☐ The TWCCRD issues the following determination: Based upon its investigation, the TWCCRD is unable to conclude that the information obtained establishes any violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ **Other: Notice of Right to File Civil Action.**



Carlos Cuellar v. AIR EVAC EMS, INC  
TWCCRD Charge No: 1A18494  
EEOC Charge No. 31C-2018-00452  
Page 2

CL-18-4403-D

**NOTICE OF RIGHT TO FILE CIVIL ACTION**

Pursuant to Sections 21.208, 21.252 and 21.254 of the Texas Labor Code, as amended, this notice is to advise you of your right to bring a private civil action in state court in the above referenced case. **PLEASE BE ADVISED THAT YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.** The time limit for filing suit based on a federal claim may be different.

**EEOC REVIEW NOTICE:**

As your charge was dual filed under Title VII of the Civil Rights Act/Age Discrimination in Employment Act/Americans with Disabilities Act, which are enforced by the U.S. Equal Employment Opportunity Commission (EEOC), you have the right to request an EEOC review of this final decision on your case. To secure a review, you must request it in writing within fifteen (15) days from the date of the notice. Send your request to: San Antonio EEOC, 5410 Fredericksburg Road, Suite 200, San Antonio, TX 78229.

On behalf of the Division

  
Lowell A. Keig  
Division Director

6/26/2018  
Date

AIR EVAC EMS, INC  
c/o Patrick S. Richter  
JACKSON LEWIS P.C.  
816 Congress Ave., Suite 1530  
Austin, TX 78701



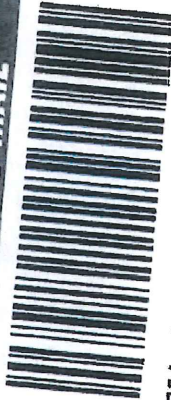
Date: 10/05/2018  
I, Arturo Guajardo, Jr. County Clerk do hereby certify that this is a true and correct copy of the original document filed in my office.  
By: Cassandra Mace  
Deputy Clerk



U-11  
TEXAS WORKFORCE COMMISSION  
Civil Rights Division  
101 East 15th Street, Guadalupe CRD  
Austin, TX 78778-0001

OFFICIAL BUSINESS

CERTIFIED MAIL



7016 0600 0000 4773 5846

U.S. POSTAGE & FITNEY BOWES  
ZIP 78701 \$006.67  
02 4W  
0000345721 JUN 27 2018

RECEIVED

CL-18-4403-D

JUN 29 2018

THE LAW OFFICE OF  
CARLOS E. HERNANDEZ, JR.

CARLOS CUELLAR  
C/O CARLOS E. HERNANDEZ, JR.  
THE LAW OFFICES OF CARLOS E. HERNANDEZ,  
JR. P.C.  
200 N. 12TH AVE., STE. 102  
EDINBURG, TX 78541

7854183503 0004



Date: 10/05/2018  
I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.  
By: *Cassandra Mace*  
Deputy Clerk

**CAUSE NO. CL-18-4403-D**

THE STATE OF TEXAS  
COUNTY OF HIDALGO

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

To: AIR EVAC EMS, INC., d/b/a AIR EVAC LIFETEAM  
SERVED BY SERVING ITS REGISTERED AGENT  
CORPORATION SERVICE COMPANY  
211 E 7TH ST., SUITE 620  
AUSTIN, TEXAS 78701

GREETINGS: YOU ARE HEREBY COMMANDED TO APPEAR by filing a written answer to the Plaintiff's petition at or before 10 o'clock A.M. on or before the Monday next after the expiration of twenty (20) days after the date of service hereof, before the Honorable County Court At Law #4 of Hidalgo County, Texas, by and through the Hidalgo County Clerk at 100 N. Closner, First Floor, Edinburg, Texas 78539.

Said Plaintiff's Petition was filed in said Court, on the 23rd day of August, 2018 in this Cause Numbered CL-18-4403-D on the docket of said Court, and styled,

**CARLOS CUELLAR**  
vs.  
**AIR EVAC EMS, INC. D/B/A AIR EVAC**

The nature of Plaintiff's demand is fully shown by a true and correct copy of Plaintiff's Original Petition (OCA) accompanying this Citation and made a part hereof.

NAME & ADDRESS OF ATTORNEY FOR PLAINTIFF:  
JOSE G. GONZALEZ  
2102 W UNIVERSITY DR  
EDINBURG TX 78541

The officer executing this citation shall promptly serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT, at Edinburg, Texas this 30th day of August, 2018.

ARTURO GUAJARDO, JR.  
COUNTY CLERK, HIDALGO COUNTY, TEXAS  
100 N. CLOSNER  
EDINBURG, TEXAS 78539  
COUNTY COURT AT LAW #4

BY \_\_\_\_\_ DEPUTY  
CASSANDRA MORA



Date: 10/05/2018

I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.

By: Cassandra Mora  
Deputy Clerk



SHERIFF'S/CONSTABLE'S/CIVIL PROCESS

SHERIFF'S RETURN

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., by Deputy (Sheriff/Constable)/Civil Process Server and to-wit the following:

DEFENDANT SERVED

Service was EXECUTED on the above referenced Defendant, in person, in Hidalgo County, Texas and served with a true copy of this Citation, with the date of delivery endorsed thereon, together with the accompanying copy of the Plaintiff's Petition, at the following

Date, time, and place, to-wit:

NAME \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ PLACE \_\_\_\_\_

By: \_\_\_\_\_  
CIVIL PROCESS SERVER

By: \_\_\_\_\_  
DEPUTY SHERIFF/CONSTABLE

DEFENDANT NOT SERVED

Service was ATTEMPTED at the above address on the above referenced Defendant on the following date(s) and time(s), but to no avail:

NAME \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ PLACE \_\_\_\_\_

NAME \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ PLACE \_\_\_\_\_

NAME \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_ PLACE \_\_\_\_\_

By: \_\_\_\_\_  
CIVIL PROCESS SERVER

By: \_\_\_\_\_  
DEPUTY SHERIFF/CONSTABLE

**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF,  
CONSTABLE OR CLERK OF THE COURT**

In accordance with rule 107, the officer or authorized person who serves or attempts to serve a citation must sign the return. If the return is signed by a person other than a sheriff, constable or the clerk of the court, the return must either be verified or be signed under the penalty of perjury. A return signed under penalty of perjury must contain the statement below in substantially the following form:

"My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_ and my address is

\_\_\_\_\_. I declare under penalty of perjury that the foregoing is true and correct

EXECUTED in \_\_\_\_\_ County, state of Texas, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DECLARANT \_\_\_\_\_

If Certified by the Supreme Court of Texas  
Date of Expiration /SCH Number



Date: 10/05/2018  
I, Arturo Guajardo, Jr. County Clerk do hereby certify that this is a true and correct copy of the original document filed in my office.  
By: Cassanueva Morci  
Deputy Clerk



September 6, 2018

RECEIVED

09/06/2018

Hidalgo County Clerk's Office

Dear MAIL MAIL:

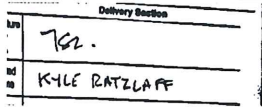
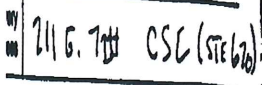
The following is in response to your request for proof of delivery on your item with the tracking number:  
**9214 8901 0661 5400 0128 0348 53.**

## Item Details

**Status:** Delivered  
**Status Date / Time:** September 6, 2018, 8:23 am  
**Location:** AUSTIN, TX 78760  
**Postal Product:** First-Class Mail®  
**Extra Services:** Certified Mail™  
 Return Receipt Electronic  
**Recipient Name:** AIR EVAC EMS INC D B A AIR EVAC LIFETEAM

## Shipment Details

## Recipient Signature

Signature of Recipient:	
	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.


Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,  
 United States Postal Service®  
 475 L'Enfant Plaza SW  
 Washington, D.C. 20260-0004

The customer reference information shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

Reference ID: 92148901066154000128034853  
 CL-18-4403-D  
 AIR EVAC EMS, INC., D/B/A AIR EVAC LIFETEAM  
 SERVED BY SERVING ITS REGISTERED AGENT  
 Corporation Service Company  
 211 E 7th St Ste 620  
 Austin, TX 78701-3218



Date: 10/05/2018  
 I, Arturo Guajardo, Jr. County Clerk do  
 hereby certify that this is a true and  
 correct copy of the original document  
 filed in my office.  
 By:   
 Deputy Clerk

## CAUSE NO. CL-18-4403-D

CARLOS CUELLAR,

*Plaintiff,*

v.

AIR EVAC EMS, INC. d/b/a AIR EVAC  
LIFETEAM,*Defendant*§  
§  
§  
§  
§  
§  
§  
§  
§  
§

IN THE COUNTY COURT

AT LAW NO. 4

HIDALGO COUNTY, TEXAS

**DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES TO  
PLAINTIFF'S ORIGINAL PETITION**

Defendant Air Evac EMS Inc., d/b/a Air Evac Lifeteam ("Air Evac" or "Defendant"), by and through the undersigned counsel, files its Original Answer and Affirmative Defenses ("Answer") to Plaintiff's Original Petition ("Petition") and would respectfully show the Court as follows:

**GENERAL DENIAL**

Pursuant to Rule 92 of the Texas Rules of Civil Procedure, Defendant generally denies each and every allegation contained in Plaintiff's Petition and demands strict proof thereof.

**AFFIRMATIVE DEFENSES**

1. Plaintiff's claims are barred, in whole or in part, because Plaintiff failed to take reasonable steps to adequately mitigate his alleged damages, if any.
2. Defendant asserts its entitlement to any allowable credits or offsets against a judgment, if any, in favor of Plaintiff.
3. Defendant invokes all applicable damages caps or limitations, including but not limited to the limitations set forth in TEX. CIV. PRAC. & REM. CODE §41.008 and/or any other

**DEFENDANT'S ORIGINAL ANSWER AND AFFIRMATIVE DEFENSES  
TO PLAINTIFF'S ORIGINAL PETITION**

Date: 10/05/2018

I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.By: Cassandra Mora  
Deputy Clerk



applicable statutory damages caps available under the Texas Labor Code or otherwise under Texas law.

4. Defendant pleads all limitations on an award or the amount of exemplary damages as set forth in the Texas Civil Practice and Remedies Code.

5. Plaintiff's claims for punitive damages are barred to the extent they are in violation of the Constitutions of the United States and the State of Texas, or any other applicable law.

6. In addition to the foregoing defenses, Defendant reserves the right to assert any other defenses available upon the completion of discovery.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that Plaintiff take nothing by his claims, that Plaintiff's claims against Defendant be dismissed with prejudice, that the Court enter final judgment in its favor, and that Defendant recover all costs, including reasonable attorneys' fees, together with such other and further relief, at law or in equity, to which it may be justly entitled.

Respectfully submitted,

By: /s/ Julie C. Tower  
Patrick S. Richter  
State Bar No. 00791524  
patrick.richter@jacksonlewis.com  
Julie C. Tower  
State Bar No. 24070756



Date: 10/05/2018  
I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.  
By: Cassandra Mora  
Deputy Clerk



Electronically Submitted  
10/1/2018 9:36 AM  
Hidalgo County Clerk  
Accepted by: Cassandra Mora

julie.tower@jacksonlewis.com  
JACKSON LEWIS PC  
816 Congress Avenue, Suite 1530  
Austin, Texas 78701  
PH: (512) 362-7100  
FX: (512) 362-5574

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document was forwarded by facsimile and U.S. Mail on the 1st day of October, 2018 to the following counsel of record:

Carlos E. Hernandez, Jr.  
THE LAW OFFICES OF CARLOS E. HERNANDEZ, JR., P.C.  
200 N. 12<sup>th</sup> Ave., Suite 102  
Edinburg, Texas 78541-3503  
Tel.: (956) 386-0900  
Fax: (956) 380-0771

Jose "Joe" Guadalupe Gonzalez  
The Law Offices of Jose G. Gonzalez  
2102 West University  
Edinburg, Texas 78539  
Tel.: (956) 383-2143  
Fax: (956) 383-2147

/s/ Julie C. Tower  
Julie C. Tower



Date: 10/05/2018

I, Arturo Guajardo, Jr. County Clerk do  
hereby certify that this is a true and  
correct copy of the original document  
filed in my office.

By: Cassandra Mora  
Deputy Clerk